IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 62 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

SMITABEN B PATEL

Appearance:

MR MANISH R BHATT for Applicant.

MRS SWATI SOPARKAR for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.A.MEHTA

Date of decision: 26/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

1 The Income-tax Appellate Tribunal, Ahmedabad Bench "C", has referred the following question for the opinion of this Court under Section 27(1) of the Wealth Tax Act,1957, at the instance of the Commissioner :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the exemption u/s.5(1)(xxxii) is allowable under the W.T.Act,1957?"

2 The assessment years are 1985-86 and 1986-87. It is a common ground between the parties that the issue raised by the question stands concluded by the decision of this Court in case of Commissioner of Wealth Tax vs. Mohinibai Kanaiyalal, 240 ITR 636(Guj.). In view of this situation, it is not necessary to set out the facts and submissions in detail.

3 For the reasons stated in the decision of Commissioner of Wealth Tax vs. Mohinibai Kanaiyalal (Supra), we answer the question referred in the negative i.e. in favour of the revenue and against the assessee.

4 The reference stands disposed of accordingly. There shall be no order as to costs.

(B.C.Patel,J) (D.A.Mehta,J)

m.m.bhatt